



# **EXHIBIT W**

Volume: I  
Pages: 122  
Exhibits: 5

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE  
COMPANY,

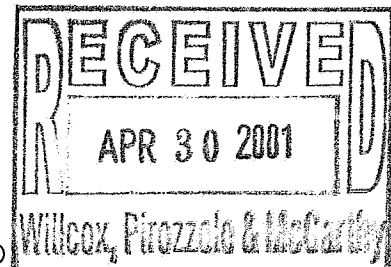
Plaintiff

vs.

Docket No.  
96-10804-DPW

THE BLACK & DECKER CORPORATION,  
BLACK & DECKER, INC., BLACK &  
DECKER (U.S.), INC., EMHART  
CORPORATION and EMHART, INC.,  
Defendants

DEPOSITION of JOHN PARKER SWEENEY, a  
witness called by and on behalf of the Plaintiff,  
taken pursuant to the Federal Rules of Civil  
Procedure, before Cynthia F. Stutz, Court Reporter  
and Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Holland & Knight,  
LLP, 10 St. James Avenue, Boston, Massachusetts, on  
Wednesday, April 18, 2001, commencing at 9:09 a.m.



HENNESSEY CORP. d/b/a ROBERT H. LANGE CO.  
50 Congress Street  
Boston, Massachusetts 02109  
(617) 523-1874

HENNESSEY CORP. d/b/a ROBERT H. LANGE CO.  
617-523-1874

1 deposition?

2 A. Mostly to familiarize myself with the give  
3 and take of questioning in this case, the kinds of  
4 issues that counsel were exploring.

5 Q. Have you ever met Mr. Schlemmer before?

6 A. Yes.

7 Q. On how many occasions have you met Mr.  
8 Schlemmer?

9 A. I can't say how many times.

10 Q. Do you recall the circumstances of you  
11 meeting Mr. Schlemmer?

12 A. I first met him in connection with  
13 meetings of the oversight committee for the  
14 Mississippi Hearing Loss cases that were held in  
15 New Orleans. I believe that would have been late  
16 1992 or early 1993.

17 Q. Do you recall when it was that you next  
18 met Mr. Schlemmer after that?

19 A. I probably met him at two or three of  
20 those meetings.

21 Q. And when you say two or three of those  
22 meetings, those would be meetings of the oversight  
23 committee for the Mississippi Hearing Loss  
24 litigation?

1           A.    Meetings that were held in New Orleans,  
2    yes.

3           Q.    Other than meetings in connection with  
4    that oversight committee for the Mississippi  
5    Hearing Loss litigation, have you had any other  
6    meetings with Mr. Schlemmer that you recall?

7           A.    Not meetings with Mr. Schlemmer, but I  
8    have been at meetings that Mr. Schlemmer also  
9    attended, if I may make that distinction. The next  
10   one I recall was sometime in the 1993, '94 period  
11   in Dallas, Texas. It was a meeting of the  
12   oversight committee in connection with the Lone  
13   Star Steel litigation and I believe Mr. Schlemmer  
14   attended that meeting, as well.

15          Q.    And have you had any other occasions where  
16   you have been present at the same meeting with Mr.  
17   Schlemmer following that?

18          A.    The only other meeting with Mr. Schlemmer  
19   that I can recall was at our offices, I believe, in  
20   1999.

21          Q.    With respect to the -- Actually, we'll  
22   return to this subject matter of these meetings,  
23   but with respect to Mr. Malter's deposition, do you  
24   recall the subject matter of the parts of that

1 other three defendants that were participating with  
2 Black and Decker in the shared counsel arrangement  
3 had outside counsel other than their Mississippi  
4 counsel, a number of the other defendants,  
5 particularly the defendants for the larger  
6 companies, the larger companies had outside  
7 separate counsel in addition to their local  
8 Mississippi counsel actively involved in the cases.

9 Q. I'm now referring back again to the packet  
10 that we had marked as the Exhibit Number 3 and  
11 picking up --

12 MR. PIROZZOLO: What page?

13 MR. DUFFY: Basically, where we had  
14 left off at Bates number 99-1173 and continuing on  
15 99-1175. I'm actually going to go next to the next  
16 document in order, beginning at 99-1176. It's the  
17 September 29, 1994 letter to Ms. Brady at Liberty  
18 Mutual from Gary Duvall and it indicates a cc. to  
19 you. Do you recall this letter?

20 A. No. I see my name as a cc. and I'm sure I  
21 received it in the normal course.

22 Q. In the second paragraph on the first page  
23 it indicates, "The 27% under the cost sharing  
24 agreement proposed by the insurance carriers which

1 was to be assessed to Black & Decker has now been  
2 confirmed to be the responsibility of Liberty  
3 Mutual results in the following legal fees being  
4 owed to each of the above firms," and then it goes  
5 on. Do you know what the cost sharing agreement  
6 proposed there is referring to?

7 A. Well, as I said before in response to a  
8 similar question earlier, there was a lot of  
9 discussion and correspondence back and forth among  
10 Black & Decker's carriers about this litigation and  
11 how they would allocate among themselves the costs  
12 and I don't believe that a final agreement was ever  
13 reached.

14 Q. Did you have any participation in those  
15 discussions?

16 A. No.

17 Q. Did you have any participation in any  
18 discussions regarding cost sharing in the  
19 Mississippi Hearing Loss litigation this letter  
20 referencing the Arkansas Hearing Loss litigation?

21 A. Without reference to this letter?

22 Q. Yes, sir.

23 A. Did I have discussions about?

24 Q. Cost sharing concerning the Mississippi

1       Hearing Loss litigation.

2           A.     I'm not sure now about what you mean by  
3       cost sharing. Cost sharing of Black & Decker's  
4       costs among its carriers, among the joint defense  
5       fund or among the shared counsel arrangement? It's  
6       confusing and I don't want the record to be  
7       confused.

8           Q.     Okay. Right now I'm referring to not the  
9       cost sharing, the joint defense cost sharing, but  
10      I'm referring to the cost sharing among Black &  
11      Decker's insurance carriers and potentially also  
12      including Black & Decker in the cost sharing  
13      arrangement.

14                   MR. PIROZZOLO: Can I ask you to  
15      just frame the question, please?

16                   MR. DUFFY: I'm framing it.

17                   MR. PIROZZOLO: Okay. Frame one  
18      question. You just told him what you were talking  
19      about. Just frame a question, I'd appreciate it,  
20      so the record will be clear.

21                   MR. DUFFY: I'm trying to frame the  
22      question, Jack.

23                   MR. PIROZZOLO: Okay, go ahead.

24                   MR. DUFFY: You know when I finish a

1 question, you can interpose an objection if you  
2 have a problem with it, but --

3 MR. PIROZZOLO: Okay.

4 Q. The issue is and the question is with  
5 respect to the Mississippi Hearing Loss litigation  
6 did you participate in any discussions regarding  
7 cost sharing for ~~the~~ cost of that litigation that  
8 would be allocated to Black & Decker under the  
9 joint defense agreement, did you have any  
10 discussions concerning, by the Liberty Mutual or  
11 Black & Decker's other carriers and potentially  
12 Black & Decker itself would pay the cost of that  
13 joint defense?

14 MR. PIROZZOLO: Objection.

15 A. I don't recall any such discussion and I  
16 did not become involved in any discussion with  
17 Black & Decker's carriers with respect to cost  
18 sharing among them or Black & Decker in the  
19 Mississippi Hearing Loss litigation.

20 Q. Earlier we discussed the, your opinion  
21 with respect to the reasonableness of the  
22 attorneys' fees charged by local counsel in the  
23 long-term exposure claims. With respect to the  
24 Arkansas Hearing Loss litigation matter do you know